

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on February 8, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Rod Bitney (R)

Members Absent: Rep. Michelle Lee (D)

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 289, HB 356, HB 404, HB 453
2/3/01
Executive Action: None

HEARING ON HB 289, HB 356, and HB 404

Sponsor: Rep. Waddell, HD 62 - HB 289
Rep. Raser, HD 70, HB 356
Rep. Wanzenried, HD 68, HB 404

Proponents: George Bailey, HB 404, HB 356, HB 289
Charlene Miller, HB 289
David McEwen, HB 404, HB 356, HB 289
Carol McQuade, HB 289
Wally Sept, HB 289, HB 356, HB 404
Jerry Barrens, HB 289, HB 356, HB 404
Scott Weldon, HB 289, HB 356, HB 404
Paul Lacey, HB 289, HB 356, HB 404
John Semple, HB 289, HB 356, HB 404

Opponents: Mike Kadas, HB 289, HB 356, HB 404
Fred Lestikay, HB 289, HB 356, HB 404
Alex Hanson, HB 289, HB 356, HB 404
Tim Burton, HB 289, HB 356, HB 404
Mike Farrows, HB 289, HB 356, HB 404
Jim Nugent, HB 289, HB 356, HB 404
Hal Falsom, HB 289, HB 356, HB 404
Jani McCall, HB 289, HB 356, HB 404
Joe Mazurek, HB 289, HB 356, HB 404

Opening Statement by Sponsor: Rep. Waddell, HD 62, HB 289 is a constituent bill on behalf of 900 Target Range residents. The bill is very simple and concise. Current law says a community cannot incorporate if it is within 3 miles of an incorporated city boundary. HB 289 would strike the 3 miles restriction. I will reserve my time for closing statements. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 4}**

Rep. Raser, HD 70, HB 356 is a request on behalf of the Target Range residents. The bill removes the exemption on voters approval for annexation of less than 300 parcels of land. Current law provides that areas consisting of 300 or more properties can be considered for annexation by the city. The council can adopt a resolution for annexation to be voted on by the residents of the proposed area. This is part of the concept of voluntary self-government. The exception in the current law is on Page 1, Line 30 and Page 2, lines 1 through 8, of this bill. It allows the city or county government to adopt a resolution of annexation of an area with less than 300 homes without the vote of the people affected. Instead, it requires a majority of property owners to protest the annexation in writing. This shifts the city burden to

the property owners. Cities and counties are using this exemption to avoid the voting process. **{Tape : 1; Side : A; Approx. Time Counter : 4 - 6}**

Rep. Wanzenried, HD 68, HB 4041 is the third in a series of bills that deals with growth outside the city and the methods the cities use for annexation. This bill would require the city to have voter approval for annexation of wholly surrounded property, if previous actions caused the property to be wholly surrounded. The residents of a wholly surrounded area should be allowed to vote on annexation. **{Tape : One; Side : A; Approx. Time Counter : 6 - 8.9}**

Proponents' Testimony: George Bailey, HB 289, 356, and 404. HB 289 is the cleanest bill and will benefit all Montanans. **{Tape : 1; Side : A; Approx. Time Counter : 10 - 15.4}**

Charlene Miller, HB 289, I have owned a home in the Target Rand community for 30 years and want to vote on annexation. **{Tape : 1; Side : A; Approx. Time Counter : 15.4 - 19}**

Dave McEwen, HB 289, HB 356, HB 404, Target Range resident. I am involved in a lawsuit where landowners are suing developers for the right to have public input regarding zoning laws. **{Tape : 1; Side : A; Approx. Time Counter : 19 - 21.1}**

Carol McQuade, HB 289, Resident of Target Range. I support all three bills. **{Tape : 1; Side : A; Approx. Time Counter : 21.1 - 23.5}**

Wally Sept, HB 289, HB 356, HB 404. I support all three bills. **{Tape : 1; Side : A; Approx. Time Counter : 23.5 - 29.1}**

Jerry Barrens, President of Target Range Homeowners. Target Range Homeowners Assn. support HB 289, HB 356, and HB 404. **EXHIBIT(loh32a02)EXHIBIT(loh32a03){Tape : 1; Side : A; Approx. Time Counter : 29.1 - 30} {Tape : 1; Side : B; Approx. Time Counter : 0 - 8.5}**

Scott Weldon, Frenchtown Fire Dept. We support HB 289, HB 356, and HB 404. **{Tape : 1; Side : B; Approx. Time Counter : 8.5 - 9.8}**

Paul Lacey, Missoula Rural Fire Dept. HB 289, HB 356, HB 404 promotes local control and the right to vote. We support these bills.**{Tape : 1; Side : B; Approx. Time Counter : 9.8 - 12}**

John Semple, I support HB 289, HB 356, and HB 404, EXHIBIT(loh32a04){Tape : 1; Side : B; Approx. Time Counter : 12 - 13}

Opponents' Testimony: Mike Kadas, Mayor of Missoula, opposes HB 289, HB 356, HB 404. These are local issue bills involving Target Range annexation. Target Range residents get the benefit of the city roads, hospitals, water and sewer systems. These outlying areas should be annexed to allow adequate planning and a tax base for future needs of Missoula. EXHIBIT(loh32a05){Tape : 1; Side : B; Approx. Time Counter : 13 - 28}

Fred Lestikey, Accountant, City of Kalispell, HB 289, HB 356, HB 404 are not good for the cities and counties. They tend to obstruct progress and growth for everyone. EXHIBIT(loh32a01) {Tape : 1; Side : B; Approx. Time Counter : 28 - 30} {Tape : 2; Side : A; Approx. Time Counter : 0 - 1.9}

Alex Hanson, League of Cities and Counties, HB 289, HB 356, HB 404 are a Helena solution to a Missoula problem and do not belong in legislature. {Tape : 2; Side : A; Approx. Time Counter : 1.9 - 4.4}

Tim Burton, Helena City Manager, HB 289, HB 356, HB 404. I oppose these bills for the reasons already stated. {Tape : 2; Side : A; Approx. Time Counter : 4.4 - 8.2}

Mike Farrows, City of Helena, HB 289, HB 356, HB 404. I am opposed to all three bills {Tape : 2; Side : A; Approx. Time Counter : 8.2 - 10.2}

Jim Nugent, Missoula City Attorney, HB 289, HB 356, HB 404. I oppose all three bills. {Tape : 2; Side : A; Approx. Time Counter : 10.2 - 12.7}

Hal Folsom, Montana Planners, HB 289, HB 356, HB 404. I oppose these three bills.{Tape : 2; Side : A; Approx. Time Counter : 12.7 - 17.4}

Jani McCall, City of Billings, HB 289, HB 356, HB 404. The city of Billings opposes these bills.{Tape : 2; Side : A; Approx. Time Counter : 17.4 - 18.4}

Joe Mazurek, City of Great Falls, HB 289, HB 356, HB 404. Great Falls opposes these bills. EXHIBIT(loh32a06){Tape : 2; Side : A; Approx. Time Counter : 18.4 - 19.7}

Questions from Committee Members and Responses: Rep. Peterson, Rep. Esp, Rep. Liable, Rep. Noennig, Rep. Anderson, Rep. Mangan asked questions of Rep. Wanzireid, Mike Barrows, Hal Folsom, Mike Kadas, Alex Hanson. The questions were addressing the city benefits that out of city residents use. Several questions and answers were dealing with residents right to vote and the right for a community to incorporate. {Tape : 2; Side : A; Approx. Time Counter : 19.7 - 30} {Tape : 2; Side : B; Approx. Time Counter : 0 - 15.4}

Closing by Sponsor: Rep. Waddell closed HB 289 with a summary of testimony.

Rep. Raser closed HB 389 closed HB 389. She is a resident of Target Range and very familiar with the problems of that area. She shared some of the problems encountered and the reasons for Target Range to not be annexed by Missoula.

Rep. Wanzenried closed HB 404 with a summary of all three bills.{Tape : 2; Side : B; Approx. Time Counter : 15.4 - 27}

HEARING ON HB 453

Sponsor: Rep. Wanzenried, HD 68

Proponents: None

Opponents: Mike Kadas, Mayor of Missoula
Tim Burton, City of Helena
Alex Hanson, League of Cities and Towns
Joe Mazurek, City of Great Falls
Jim Nugent, Missoula City Attorney

Opening Statement by Sponsor: Rep. Wanzenried introduced HB 453, This is a study bill than puts a moratorium on annexation until the study is completed and presented to the 2003 legislature. HB 453 is a fall back to make certain that the problems with annexation laws are addressed. {Tape : 2; Side : A; Approx. Time Counter : 27 - 30} {Tape : 3; Side : A; Approx. Time Counter : 0 - 0.5}

Proponents' Testimony: None

Opponents' Testimony: Mike Kadas, Mayor of Missoula, opposes this bill because it would hinder the cities growth and development. He describes the five current methods of annexation, which he feels

are adequate. **{Tape : 3; Side : A; Approx. Time Counter : 0.5 - 4.5}**

Tim Burton, Helena City Manager. I oppose this bill, but I do feel the annexation laws of Montana need to be looked at and updated. **{Tape : 3; Side : A; Approx. Time Counter : 4.5 - 6.7}**

Alex Hanson, League of Cities and Towns. We oppose this bill for all the previous reasons. **{Tape : 3; Side : A; Approx. Time Counter : 6.7 - 8.6}**

Joe Mazurek, City of Great Falls. Great Falls opposes this bill, especially the portion changing the current 50% to 25% of the voters. **{Tape : Three; Side : A; Approx. Time Counter : 9.1 - 10.8}**

Jim Nugent, Missoula County Attorney, This bill is not necessary. The current laws are adequate (he read the current statutes). **{Tape : 3; Side : A; Approx. Time Counter : 10.8 - 11.5}**

Questions from Committee Members and Responses: Rep. Peterson; Rep. Wanzenried, was the last study of annexation laws in 1977? What has changed with annexation problems since that time? Rep. Wanzenried: Yes, last study was done in 1977, however, the 1997 legislature attempted to do some clean up of the annexation laws. They presented the bills separately with several pieces of legislation, instead of addressing the entire annexation issue. The individual bills got lost in the shuffle and none of the bills were passed. **{Tape : Three; Side : A; Approx. Time Counter : 11.5 - 13.5}**

Closing by Sponsor: Rep. Wanzenried closed with a summary of the comments. **{Tape : 3; Side : A; Approx. Time Counter : 13.5 - 15.7}**

EXECUTIVE ACTION ON HB 62

Motion/Vote: REP. CARNEY moved that HB 62 DO PASS. Motion carried 12-6 with Anderson, Peterson, Esp, Himmelberger, Lawson, and Whitaker voting no. **{Tape : 3; Side : A; Approx. Time Counter : 15.7 - 22.8}**

EXECUTIVE ACTION ON HB 345

Motion: REP. MANGAN moved that HB 345 DO PASS.

Discussion: Rep. Esp expressed concern with the make up of the board. Rep. Mangan, the county commissioners will meet with the

other board members to approve any pay raises. If the voters are unhappy with the pay raises they have the option of not reelecting the commissioners.

Motion/Vote: REP. ESP moved that HB 345 BE AMENDED (conceptual). This amendment will add two additional resident taxpayers. **Motion carried 16-2 with Peterson and Younkin voting no.**

Motion: REP. MANGAN moved that HB 345 DO PASS AS AMENDED.

Motion: REP. PETERSON moved that HB 345 BE AMENDED (conceptual). Wants to limit the number of people who set the salaries. A board made up of five people appointed by the county commissioners, three county commissions and county attorney is not a good combination. In fact, this is the fox guarding the henhouse.

Discussion: There was discussion on the make up of the Board. This Board sets the salaries for themselves and other employees. Several committee members expressed the need to appoint some resident members.

Rep. Newman stated this bill could be a conflict of interest for him, as it dealt with his pay raises. Eddy McClure determined that Newman could vote on the bill as it was not a direct conflict.

Rep. Newman made a decision to not vote on this bill in committee.

Rep. Esp understands the Peterson amendment would replace his amendment if it is passed.

Motion/Vote: REP. PETERSON moved that HB 345 BE AMENDED. **Motion failed 8-8 with Andersen, Carney, Cyr, Jacobson, Laslovich, Lawson, Lee, and Mangan voting no.** Rep. Bitney was excused-did not vote. Rep. Newman abstained from voting.

Motion/Vote: REP. ESP moved that HB 345 BE AMENDED. **Motion carried 16-1.** Rep. Newman did not vote.

Motion: REP. MANGAN moved that HB 345 DO PASS AS AMENDED.

Discussion: Committee discussed the conflict this bill has with Rep. Peterson's bill and HB 124.

Motion/Vote: REP. WHITAKER moved that HB 345 BE TABLED. **Motion failed 9-9 with Bitney, Esp, Himmelberger, Laible, Lawson, Noennig, Peterson, Whitaker, and Younkin voting yes.**

Motion/Vote: REP. YOUNKIN moved that HB 345 DO PASS AS AMENDED. Motion failed 9-9. Bitney, Esp, Himmelberger, Laible, Lawson, Noennig, Peterson, Whitaker, and YOUNKIN voting no.

Substitute Motion/Vote: REP. YOUNKIN made a substitute motion HB 345 action be postponed. Substitute motion carried 14-2 with Newman and Price voting no. {Tape : 3; Side : A; Approx. Time Counter : 22.8 - 30} {Tape : 4; Side : A; Approx. Time Counter : 0 - 12.9}

EXECUTIVE ACTION ON HB 409

Motion: REP. LASLOVICH moved that HB 409 DO PASS.

Motion: REP. ESP moved that HB 409 BE AMENDED.

Motion: REP. ESP withdrew his motion that HB 409 BE AMENDED.

Motion/Vote: REP. LASLOVICH moved that HB 409 DO PASS. Motion failed 9-9 with Carney, Cyr, Jacobson, Laslovich, Lawson, Lee, Mangan, Newman, and Price voting aye.

Motion/Vote: REP. LAWSON moved that HB 345 BE POSTPONED. Motion carried unanimously. {Tape : 4; Side : A; Approx. Time Counter : 12.9 - 23}

EXECUTIVE ACTION ON HB 289, HB 356, HB 404, HB 453

Motion/Vote: REP. CARNEY moved that HB 289 BE TABLED. Motion carried 17-1 with Bitney voting no.

Motion/Vote: REP. CARNEY moved that HB 356 BE TABLED. Motion carried 16-2 with Esp and YOUNKIN voting no.

Motion/Vote: REP. CARNEY moved that HB 404 BE TABLED. Motion carried 17-1 with YOUNKIN voting no.

Motion/Vote: REP. CARNEY moved that HB 453 BE TABLED. Motion carried unanimously. {Tape : 4; Side : A; Approx. Time Counter : 23 - 28.1}

ADJOURNMENT

Adjournment: 7:52 P.M.

REP. MARK NOENNIG, Chairman

PATI O'REILLY, Secretary

MN/PO

EXHIBIT (loh32aad)